

VICTOR S. DULETSKY

IBLA 83-878

Decided October 31, 1983

Appeal from decision of the Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas leasing application M 58462 Acq.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings--Oil and Gas Leases: Applications: Filing

Where an automated simultaneous oil and gas lease application Part B, form 3112.6a (June 1981), does not contain a correct identification number in the circles under the space designated "MARK SOCIAL SECURITY NUMBER," it is not properly completed and must be rejected.

APPEARANCES: Victor S. Duletsky, pro se.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Victor S. Duletsky has appealed from the July 21, 1983, decision of the Montana State Office, Bureau of Land Management (BLM), which rejected his simultaneous oil and gas leasing application for parcel MT 459 in the March 1983 simultaneous oil and gas lease drawing because Part B of the automated processing application was incorrectly filled out. Although appellant wrote his correct identification number, 502 30 1987 on Part B of the application, the circles below that number are filled in showing the identification number as 512 30 1987.

Appellant states that his error was unintentional, that his correct number was written on the form and the written number corresponded to the number on Part "A" of his application. Appellant has submitted a corrected copy of Part "B."

Beginning on January 1, 1982, the form approved by the Director, BLM, for use in the Wyoming State Office is the automated simultaneous oil and gas lease application form 3112-6 and 3112-6a. 43 FR 5573 (Nov. 12, 1981). A simultaneous oil and gas lease application is required under 43 CFR 3112.2-1. This application must be filed on a form approved by the Director, BLM. The automated form, which is machine readable, is designed to accommodate the automated processing of simultaneous oil and gas lease applications. The development of the automated process is a result of BLM's efforts to expedite the issuance of leases and lessen the paperwork burden. 46 FR 55783, 55784 (Nov. 12, 1981).

The application form consists of two parts, A and B. Part A, which should be submitted only with the applicant's first filing under the automated process, enables BLM to record the applicant's name and address. Part B identifies all parcels which the applicant desires to lease and a separate Part B is submitted for each drawing. The identification number appearing on both parts is the coordinating feature between them.

The principles governing adjudication of simultaneous lease applications are well established. A noncompetitive oil and gas lease may be issued only to the first-qualified applicant. See 30 U.S.C. § 226(c) (1976). "If the Secretary is to fulfill his obligation to lease to the first-qualified applicant, as strict a compliance with the regulations as possible is necessary." Shearn v. Andrus, No. 77-1228, Slip Op. at 6 (10th Cir. Sept. 19, 1977), quoted in Sorensen v. Andrus, 456 F. Supp. 499, 502 (D. Wyo. 1978). Applicants under the simultaneous filing system are precluded from correcting applications after the drawing has been held because doing so would infringe on the rights of other drawees who may be qualified. See Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067, 1070 (10th Cir. 1976).

[1] Departmental regulation 43 CFR 3112.6-1(g) (1982) clearly provides that an application will be rejected if not filed in accordance with 43 CFR 3112.2 (1982). ^{1/} The regulation requires that applications be "properly completed." This rule promotes the efficient administration of the simultaneous oil and gas leasing program in view of the number of applications submitted. Shaw Resources, Inc., 73 IBLA 291 (1983). All Part B filings must correspond with a Part A filing on record and all information on Part B filings must be consistent. The instructions on Part B direct the applicant to "print in the appropriate squares the number used by the applicant on Part A and mark the corresponding circles." (Emphasis added.) The number indicated in the filled circles is the feature by which the machine distinguishes the application as distinctly that of the applicant, and proper completion of the circles is necessary. Thus, unless the circles are correctly filled out to show the social security number, the computer cannot read the applicant's number. Although appellant printed his number in the appropriate squares, he failed to properly mark the corresponding circles, and his application must be rejected for this reason. See Donald E. Hook, 76 IBLA 376 (1983); Deborah B. Moncrief, 76 IBLA 287 (1983).

^{1/} The regulations cited in the text of the opinion are those in effect when appellant's application was filed. On July 22, 1983, 43 CFR Part 3110 was revised effective Aug. 22, 1983. 48 FR 33648. The new regulations provide at 43 CFR 3112.3(e), 48 FR 33679: "An application which is accepted for selection but which does not fully comply with subpart 3112 of this title shall, if selected for priority, be rejected and the filing fee retained."

Likewise, 43 CFR 3112.2-1(a), 48 FR 33678, provides in pertinent part: "An application to lease under this subpart consists of a simultaneous oil and gas lease application on the form approved by the Director, completed, signed and filed pursuant to the instructions in the application form and to the regulations in this subpart."

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Franklin D. Arness
Administrative Judge
Alternate Member

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

